

REMARKS

Claims 1, 2, 4, 5, 8, 11, 14, 16-18, 20-24, 28, 29, 32, 36, 38, 42, 45-51, 53-58, 60, 62, 63, 65 and 66 are pending in this application. Claims 45, 46, 50, 51, and 53-58 are withdrawn.

Claims 1, 2, 4, 5, 8, 11, 14, 16-18, 20-24, 28, 29, 32, 36, 38, 42, 47, 48, 60, 62, 63, 65 and 66 are rejected. Claim 49 is objected to. By this amendment, claims 1, 2, 4, 5, 8, 11, 14, 16-18, 20-24, 28, 29, 32, 36, 38, 42, 47, 48, 60, 62, 63, and 66 are amended, claims 21, 29, and 65 are canceled, claim 49 has been withdrawn, and new claims 67-90 have been added.

On May 15, 2007, Applicant's undersigned representative spoke with Examiner Hewitt regarding the Office action, which interprets Applicant's claim element "a [fitting] body" to read on a front ferrule of the fittings disclosed in U.S. Patent No. 6,131,963 to Williams et al. and U.S. Patent No. 4,076,286 to Spontelli et al. Applicant contends that based on the teachings in Applicant's specification and what is understood by those having ordinary skill in the art, a fitting body, of a tube fitting having a body and nut, does not read on a ferrule. However, to provide additional clarification for the Office, Applicant wished to present an amendment that further distinguishes a fitting body from a ferrule. Examiner Hewitt, however, would not consider a clarifying amendment after final.

Objections to the Specification

The disclosure is objected to because the amendment to the specification filed on 9/25/06 incorrectly identified the location of the paragraph to be replaced. Applicant has resubmitted the amendment, properly identifying the location of the paragraph to be amended.

In addition, the disclosure is objected to as failing to provide proper antecedent basis for the claimed subject matter of claim 49. In particular, the angle alpha does not appear applicable to the elected embodiment. Applicant disagrees. While only shown in Figure 2, one of ordinary skill in the art would appreciate that the angle alpha could be applied to any of the embodiments of the invention. In order to advance prosecution of the application, however, Applicant has withdrawn claim 49 while reserving the right, per 37 CFR 1.141, to have claim 49 examined should a generic claim be allowed.

Objections to the Claims

Claims 1, 2, 4, 5, 8, 11, 14, 16-18, 20-24, 28, 29, 32, 36, 38, 42, 47-49, 60, 62, 63, 65 and 66 are objected to for clarity reasons. In particular, the Office action directs Applicant to replace the preamble of independent claims 1 and 28 with "A tube fitting assembly comprising:" and amend line 4 of independent claims 1 and 28 to insert the phrase "a fitting comprising" before the words "a body." Furthermore, to be consistent with these amendments, the Office action directs Applicant to amend the preamble of the dependent claims to insert the word "assembly" after the word "fitting."

For reasons of clarity, Applicant has amended the claims as directed by the Office action

Claim Rejections - 35 USC § 112

Claim 65 is rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. In particular, the use of the phrase "wherein the tube end is radially compressed by the ferrule, the radial compression of the tube end decreasing in a generally axial direction away from said front edge of the ferrule along the length of said interior wall" is objected to for not being described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has canceled claim 65.

Claim Rejections - 35 USC § 103

The Office Action rejected claims 1, 2, 4, 5, 8, 11, 14, 16-18, 20-24, 28, 29, 32, 36, 38, 42, 47, 48, 60, 62, 63, and 66 under 35 USC § 103(a) as being unpatentable over Williams et al. (USPN 6,131,963) in view of Spontelli (USPN 4,076,286).

Claim 1 and 28

Applicant respectfully submits that claim 1 and claim 28, as amended, are not rendered obvious by the proposed combination because the combination fails to teach or suggest all of the elements of the claim as required to establish a prima facie case of obviousness.

Claim 1 and claim 28, as amended, recite, in part, "a fitting comprising a body and nut that can be joined; said body having an interior bore that receives the metal tube . . . said bore having a camming surface at a first end of said bore and a generally radial shoulder facing the

tube end at a second end of the bore . . . wherein said camming surface forms an included angle of about thirty-five degrees to about sixty degrees with respect to said longitudinal axis."

The Office action identifies the front ferrule 16 of Williams and the front ferrule 44 of Spontelli as teaching, in combination, a body having a bore and camming surface as claimed by Applicant. The front ferrules 16 and 44 of Williams and Spontelli, respectively, do not include a generally radial shoulder facing the tube end, as recited in amended claims 1 and 28. A ferrule cannot be fairly read on this recited structure. Thus, and the rejection of claim 1 and claim 28, and the claims the depend therefrom, is not supported by the art of record and should be withdrawn.

Newly Added Claims

Newly added claims 67-90 are fully supported by the specification and are patentable over the art of record. Independent claim 67 is patentable for at least the same reasons that independent claim 1 is patentable. Independent claim 79 is patentable for at least the same reasons that independent claim 28 is patentable.

CONCLUSION

Based on the foregoing amendments and remarks, Applicant believes that all of the claims in this case are now in condition for allowance and an indication to that effect is respectfully requested.

Respectfully submitted,

Date: 4/23/07

By: Mark R. Hull
Mark R. Hull, Reg. No. 54,753
(216) 622-8419